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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

MUSCLEPHARM CORPORATION,

Debtor.

Case No.: 22-14422-NMC

Chapter 11

Hearing

Date: N/A

Time: N/A

**ATTORNEY INFORMATION SHEET IN SUPPORT OF EX PARTE APPLICATION FOR
ORDER SHORTENING TIME TO HEAR EMERGENCY MOTION TO ENFORCE
*INTERCREDITOR AND SUBORDINATION AGREEMENT UNDER SECTION 510(a) OF
THE BANKRUPTCY CODE***

As required by Local Rule¹ 9006, William M. Noall, Esq. of Garman Turner Gordon LLP, counsel for Empery Tax Efficient, LP, as collateral agent for the holders of the senior secured notes and related claims discussed in the Motion (the “Senior Creditor”), has contacted the parties listed below regarding the proposed order shortening time to hear the *Emergency Motion to Enforce Intercreditor and Subordination Agreement under Section 510(a) of the Bankruptcy Code* (the

¹ Unless otherwise stated, all Chapter and Section references are to Title 11 of the U.S. Code (the “Bankruptcy Code”); all “Bankruptcy Rule” references are to the Federal Rules of Bankruptcy Procedure; and all references to “Local Rule” are to the Local Rules of Bankruptcy Practice for the U.S. District Court for the District of Nevada.

1 “Motion”).

2 The parties listed below agree and disagree to the time being shortened, as indicated below:

3 <u>Name</u>	4 <u>Date Contacted</u>	5 <u>Agree</u>	6 <u>Disagree</u>	7 <u>No Response</u>
8 Samuel A. Schwartz, Esq. <i>Counsel for Debtor</i>	9 5/14/23 (via email)	10 X		
11 Jason Rosell, Esq. 12 John D. Fiero, Esq. 13 <i>Counsel for the Official Committee of Unsecured Creditors</i>	14 5/14/23 (via email)	15 X		
16 Joseph Went, Esq. 17 <i>Counsel for MHF Opco, LLC and Brian Slater</i>	18 5/14/23 (via email)	19 X (via phone)		
20 Shara Larson, Esq. 21 <i>Counsel for JW Nutritional LLC</i>	22 5/14/23 (via email)	23 X		
24 Michael Richman, Esq. 25 <i>Counsel for Ryan Drexler</i>	26 5/14/23 (via email)		27 X ²	

28 DATED: May 15, 2023.

GARMAN TURNER GORDON LLP

/s/ Teresa M. Pilatowicz
GREGORY E. GARMAN
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Attorneys for Empery Tax Efficient, LP

² A copy of Mr. Richman’s email is attached hereto pursuant to his request.

Caitlin Halm

From: Michael Richman <mrichman@Steinhilberswanson.com>
Sent: Monday, May 15, 2023 7:41 AM
To: William Noall
Cc: Dawn Cica; Candace Carlyon; Gregory Garman; Dylan Ciciliano; Teresa Pilatowicz; Caitlin Halm
Subject: RE: In re MusclePharm Corporation, Bankruptcy Case No. 22-14422-NMC

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Bill: I would be pleased to schedule a call to understand your position, but for a variety of reasons involving other matters cannot do that until this afternoon (3 p.m. central time or later).

Pending such discussion, and consideration of anything you believe we may have missed, having anticipated the possibility that your client would take such a position, we previously reviewed the intercreditor agreement in detail and concluded that the Trustee motion and related discovery did not violate any of the obligations set forth in that agreement. We continue to have that position.

In the circumstances, we reject your client's demand that we withdraw the Trustee motion and the discovery. If you want to make reference to this in the Joint Report, we would agree to add "Empery asserts that the Trustee Motion and related discovery violate the terms of that certain Intercreditor and Subordination Agreement as amended March 8, 2022. Drexler asserts that the foregoing agreement is inapplicable for a variety of reasons, including that the Trustee Motion and discovery are completely outside its ambit. At the time this Joint Report was submitted, the parties were continuing to discuss these matters."

To the extent you determine to seek relief from the Court on shortened notice, you may report that we are opposed to an OST, and we would like to be heard by the Court on any such request.

Michael

Michael P. Richman

Steinhilber Swanson LLP

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STEINHILBER
SWANSON LLP
ATTORNEYS AT LAW

From: William Noall <wnoall@Gtg.legal>
Sent: Sunday, May 14, 2023 11:26 PM
To: Michael Richman <mrichman@Steinhilberswanson.com>
Cc: Dawn Cica <Dcica@carlyoncica.com>; Candace Carlyon <ccarlyon@carlyoncica.com>; Gregory Garman

<Ggarman@Gtg.legal>; Dylan Ciciliano <dciciliano@Gtg.legal>; Teresa Pilatowicz <tpilatowicz@Gtg.legal>; Caitlin Halm <CHalm@Gtg.legal>

Subject: In re MusclePharm Corporation, Bankruptcy Case No. 22-14422-NMC

Michael,

I understand it is late your time but wanted to advise of Empery's position on your motion to appoint a trustee and discovery and schedule call to meet and confer with you re same. After researching and analyzing the matter last week and over the weekend, we (Empery) have concluded that your motion and discovery violate the terms of Mr. Drexler's intercreditor and subordination agreement with Empery. Accordingly, this is our demand that you withdraw your motion for the appointment of a trustee and discovery. Please let me know what time we can discuss these matters (preferably earlier your time tomorrow morning). We will be prepared to file our papers with the court tomorrow if we cannot come to an agreement, and we request and order shortening time on our emergency motion to enforce the intercreditor agreement. Let me know when you will be available for this requested call.

Bill

William M. Noall

Partner

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Admitted to practice in California, Nevada and Utah

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